

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

## **ORDER**

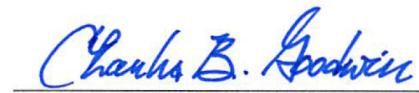
On September 23, 2019, the Court entered an Opinion and Order and a Judgment reversing the decision of the Commissioner and remanding this case for further proceedings. *See* Doc. Nos. 18, 19. Plaintiff Joe S. Hearn, Jr. now requests an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.'s Mot. Att'y Fees (Doc. No. 21). Defendant has responded that he has no objection to the requested fee award. *See* Def.'s Resp. (Doc. No. 23).<sup>1</sup>

Having considered Plaintiff's unopposed request and the relevant record, the Court finds that: "(1) [P]laintiff is a 'prevailing party'; (2) the position of the United States was not 'substantially justified'; and (3) there are no special circumstances that make an award of fees unjust" in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff's request

<sup>1</sup> Defendant likewise does not object to Plaintiff's request for reimbursement of \$400 in costs, payable from the Judgment Fund administered by the U.S. Department of the Treasury. *See id.* at 1-2; Doc. Nos. 20, 22.

(Doc. No. 21) and awards fees in the amount of \$4250.60, with said amount to be paid directly to Plaintiff and sent in care of Casey L. Saunders, P.O. Box 2318, Ada, Oklahoma 74821. If attorney's fees are also awarded under 42 U.S.C. § 406(b), Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 13th day of February, 2020.



CHARLES B. GOODWIN  
United States District Judge